



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-R09-RCRA-2011-0103; [FRL-9743-7]

Adequacy of Arizona Municipal Solid Waste Landfill Permit Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public hearing and continued opportunity to comment.

SUMMARY: The Environmental Protection Agency Region IX will hold a public hearing concerning the agency's tentative determination to approve a modification to Arizona's municipal solid waste landfill (MSWLF) permit program to allow the State to issue research, development, and demonstration (RD&D) permits for new and existing MSWLF units and lateral expansions. EPA published its tentative determination on February 22, 2011 and offered an opportunity for a public hearing. Initially, EPA closed its comment period on April 25, 2011 and announced it would not hold a public hearing. Since that time, in response to public interest and updates to Arizona's RD&D permit program, EPA decided to hold a public hearing, extend the comment period through the date of the public hearing, and make available for public review the updated information submitted by Arizona in support of its RD&D program.

DATES: EPA will hold a public hearing on December 18, 2012 at 6:00 pm in Room 145 on the first floor of the office of the Arizona Department of Environmental Quality at 1110 West Washington Street, Phoenix, Arizona. Comments must be received on or before December 18, 2012. EPA will accept all comments received between February 22, 2011 and December 18, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-RCRA-2011-0103 by one of the following methods:

- www.regulations.gov: Follow the on-line instructions for submitting comments.
- Email: ueno.karen@epa.gov.
- Fax: (415) 947-3530.
- Mail: Karen Ueno (WST-7), Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.
- Hand Delivery: Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R09-RCRA-2011-0103. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA

may not be able to consider your comment. Electronic files should avoid the use of special characters, or any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information disclosure of which is restricted by statute. Certain other materials, such as the State's prior applications for MSWLF permit program approval, are available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901. This Docket facility is open from 9:00 am to 4:00 pm, Monday through Friday, excluding legal holidays. It is located in a secured building. To review docket materials at the Docket facility, it is recommended that an appointment be made in advance by calling the Docket facility at (415) 947- 4406 during normal business hours.

FOR FURTHER INFORMATION CONTACT: Karen Ueno, Waste Management Division, WST-7, Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901; telephone number: (415) 972-3317; fax number: (415) 947-3530; email address: ueno.karen@epa.gov

SUPPLEMENTARY INFORMATION:

I. General Information

A. Background

On March 22, 2004, EPA issued a final rule amending the municipal solid waste landfill criteria at 40 CFR 258.4 to allow for Research, Development, and Demonstration (RD&D) permits (69 FR 13242). This rule allows for variances from specified criteria for a limited period of time. Specifically, the rule allows the Director of an EPA-approved State permit program to issue a

time-limited RD&D permit for a new MSWLF unit, existing MSWLF unit, or lateral expansion, for which the owner or operator proposes to use innovative and new methods which vary from either or both of the following: 1) the run-on control systems at 40 CFR 258.26, and/or 2) the liquids restrictions at 40 CFR 258.28(a), provided that the MSWLF unit has a leachate collection system designed and constructed to maintain less than a 30 cm depth of leachate on the liner. The rule also allows the Director of an EPA-approved State permit program to issue a time-limited RD&D permit for which the owner or operator proposes to use innovative and new methods that vary from the final cover criteria at 40 CFR 258.60(a) (1) and (2), and (b) (1), provided that the owner or operator demonstrates that the alternative cover system will not contaminate groundwater or surface water, or cause leachate depth on the liner to exceed 30 cm. An RD&D permit cannot exceed three years and a renewal of an RD&D permit cannot exceed three years. Although multiple renewals of an RD&D permit can be issued, the total term for an RD&D permit including renewals cannot exceed twelve years.

RD&D permits are only available in states with EPA-approved MSWLF permit programs that have been modified to incorporate the RD&D permit authority. Although a state is not required to seek approval for the RD&D permit provision, a state must obtain EPA approval before it may issue such a permit. Requirements for EPA's determination of a state program's adequacy and the approval procedures are contained in 40 CFR Part 239.

In 1994, EPA Region IX approved the State of Arizona's municipal solid waste landfill (MSWLF) permit program pursuant to Subtitle D of the federal Resource Conservation and Recovery Act (RCRA). By application dated June 28, 2010, updated on January 26, 2011 and September 27, 2012, the State of Arizona is seeking EPA approval for a modification to the State's existing MSWLF permit program to include RD&D permits. On February 22, 2011,

EPA published a tentative approval of Arizona's RD&D permit program modification. (76 FR 9772).

Following the close of the public hearing and the public comment period, and after consideration of comments received, EPA will issue a final determination. If EPA grants approval, Arizona will be able to issue variances for run-on control systems, liquid restrictions, and final cover criteria to allow for innovative and new methods, such as bioreactor landfills. The approval of the program modification will allow the Director of Arizona's program to provide a variance from certain MSWLF criteria, provided that the MSWLF owner/operator demonstrates that compliance with the RD&D permit will not increase risk to human health and the environment. The Director may provide a variance from existing requirements of MSWLF criteria for run-on control systems, liquids restrictions, and final cover. EPA is seeking public comment on its tentative determination of the adequacy of Arizona's RD&D modification to its MSWLF permit program.

B. Submitting Comments on EPA's Tentative Determination

Tips for Preparing Your Comments. When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
- Follow directions - The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that

you used.

- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

Submitting Confidential Business Information (CBI). Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket.

Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2.

Docket Copying Costs. Copying arrangements will be made through the Docket facility and billed directly to the recipient. Copying costs may be waived depending on the total number of pages copied.

AUTHORITY: Sections 2002, 4005, and 4010(c) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6945, and 6949(a). Delegation 8-46. State/Tribal Permit Programs for Municipal Solid Waste Landfills.

Dated: October 22, 2012.

Jared Blumenfeld,
Regional Administrator,
Region IX.

[FR Doc. 2012-26792 Filed 10/30/2012 at 8:45 am; Publication Date: 10/31/2012]